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SEC

SERVICE DATE – LATE RELEASE JULY 18, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34666

COLUMBUS AND GREENVILLE RAILWAY COMPANY–ACQUISITION AND  
OPERATION EXEMPTION–LINE OF CITY OF GREENWOOD, MS

Decided: July 18, 2005

On March 23, 2005, Columbus and Greenville Railway Company (C&G), a Class III rail carrier, filed a verified notice of exemption under 49 CFR 1150.41 to acquire from the City of Greenwood (City) and operate approximately 2.99 miles of newly constructed bypass rail line, extending from C&G milepost 113.59 to C&G milepost 116.57, in Leflore County, MS. Notice of the exemption was served and published in the Federal Register (70 FR 20963) on April 22, 2005.

On March 30, 2005, Morris Recycling, Inc. (Morris) filed petitions to stay and to revoke the exemption. On April 8, 2005, C&G responded. On April 14, 2005, Morris filed a petition for leave to file a reply and a reply to C&G's reply, along with a copy of discovery requests that it served on C&G on or about April 1, 2005. On April 18, 2005, C&G filed a motion to quash discovery, to which Morris replied on April 20, 2005, and a motion to deny Morris' request to submit a reply to a reply. On May 3, 2005, Morris filed a motion to compel C&G to respond to its first set of discovery requests, and a request for an extension of the deadline for filing a supplement to its petition to revoke. On May 12, 2005, C&G filed a reply to Morris' extension request and motion to compel.

A decision served on May 12, 2005, tolled the deadline for Morris to file a supplemental petition to revoke in this proceeding. The decision also indicated that a separate decision would be issued resolving the discovery issues and setting the times for future filings, including Morris' supplemental petition.

In a decision served on June 23, 2005, the Board instituted a proceeding under 49 U.S.C. 10502(d) to consider Morris' petition to revoke and also set a procedural schedule for Morris' supplemental filing and C&G's reply. Because, in its reply that was filed on May 12, 2005, C&G indicated that it had made available to Morris the documents that Morris had sought by

discovery, the Board found that no action appeared to be necessary on Morris' motion to compel or on C&G's motion to quash discovery.

By letter filed on July 15, 2005, Morris requests that the Board hold the proceeding in abeyance. Morris states that it has entered into settlement discussions with C&G and the City, and that a settlement agreement would likely be reached within the next week. Morris also states that C&G, the other party to this proceeding, has authorized this letter and supports holding the proceeding in abeyance.

Additionally, Morris requests an extension of time for filing its supplemental petition until August 15, 2005, in the event a settlement is not reached, and an extension of C&G's reply due date. Morris also has asked for expedited consideration of these requests. The requests are reasonable and will be granted.

It is ordered:

1. Morris' requests are granted as discussed above.
2. Morris' supplement to its petition is due by August 15, 2005.
3. C&G's reply is due by August 30, 2005.
4. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary